

AMENDED IN ASSEMBLY APRIL 13, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 2173

Introduced by Assembly Member Pacheco

February 19, 1998

An act to amend Section 3600.4 of the Labor Code, relating to firefighters.

LEGISLATIVE COUNSEL'S DIGEST

AB 2173, as amended, Pacheco. Firefighters: workers' compensation.

Under existing law, a person injured in the course of employment is generally entitled to workers' compensation. Under existing law, whenever any firefighter is injured, dies, or is disabled by reason of his or her proceeding to or engaging in a fire suppression or rescue operation, or the protection or preservation of life or property, anywhere in this state, the firefighter is entitled to the same benefits under provisions relating to workers' compensation that he or she would have received had that firefighter been acting under the immediate direction of his or her employer.

This bill would also provide for those benefits if the firefighter is injured, dies, or is disabled while engaging in activities within his or her expertise or training as a firefighter. ~~Since~~

Under existing law, the provision requiring the provision of benefits to firefighters does not require any benefits if the

local public entity prohibits the activity giving rise to the injury, death or disability.

This bill would provide that this provision does not relieve the employer from liability for benefits for any injury, disability, or death of a firefighter arising out of the provision of emergency services, as defined, at the scene of an emergency.

Since the bill would impose new duties on local jurisdictions with respect to the payment of workers' compensation, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3600.4 of the Labor Code is
2 amended to read:
3 3600.4. (a) Whenever any firefighter, as defined in
4 Section 50925 of the Government Code, of a city, county,
5 city and county, district, or other public or municipal
6 corporation or political subdivision is injured, dies, or is
7 disabled from performing his or her duties as a firefighter
8 by reason of his or her proceeding to or engaging in a fire
9 suppression or rescue operation, or the protection or
10 preservation of life or property, or otherwise engaging in
11 activities within his or her expertise or training as a
12 firefighter, anywhere in this state, including the local
13 jurisdiction in which he or she is employed, but is not at
14 the time acting under the immediate direction of his or



1 her employer, he or she or his or her dependents, as the
2 case may be, shall be accorded by his or her employer all
3 of the same benefits of this division which he or she or
4 they would have received had that firefighter been acting
5 under the immediate direction of his or her employer.
6 Any injury, disability, or death incurred under the
7 circumstances described in this section shall be deemed
8 to have arisen out of and been sustained in the course of
9 employment for purposes of workers' compensation and
10 all other benefits.

11 (b) Nothing in this section shall be deemed to:

12 (1) Require the extension of any benefits to a
13 firefighter who at the time of his or her injury, death, or
14 disability is acting for compensation from one other than
15 the city, county, city and county, district, or other public
16 or municipal corporation or political subdivision of his or
17 her primary employment or enrollment.

18 (2) Require the extension of any benefits to a
19 firefighter employed by a city, county, city and county,
20 district, or other public or municipal corporation or
21 political subdivision which by charter, ordinance, or
22 departmental regulation, whether now in force or
23 hereafter enacted or promulgated, expressly prohibits
24 the activity giving rise to the injury, disability, or death.
25 *However, this paragraph shall not apply to relieve the*
26 *employer from liability for benefits for any injury,*
27 *disability, or death of a firefighter arising out of the*
28 *provision of emergency services, as defined in subdivision*
29 *(e) of Section 1799.107 of the Health and Safety Code, at*
30 *the scene of an emergency.*

31 SEC. 2. Notwithstanding Section 17610 of the
32 Government Code, if the Commission on State Mandates
33 determines that this act contains costs mandated by the
34 state, reimbursement to local agencies and school
35 districts for those costs shall be made pursuant to Part 7
36 (commencing with Section 17500) of Division 4 of Title
37 2 of the Government Code. If the statewide cost of the
38 claim for reimbursement does not exceed one million
39 dollars (\$1,000,000), reimbursement shall be made from
40 the State Mandates Claims Fund.

1 Notwithstanding Section 17580 of the Government
2 Code, unless otherwise specified, the provisions of this act
3 shall become operative on the same date that the act
4 takes effect pursuant to the California Constitution.

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